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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF FREEDOM OF OPINION

Letter dated 14 March 2001 from the Permanent Representative of Albania to the United Nations Office at Geneva addressed to the United Nations High Commissioner for Human Rights

I have the honour to refer to the report of the Special Rapporteur on the protection and promotion of the right to freedom of opinion and expression on his recent mission to the Republic of Albania (E/CN.4/2001/64/Add.1). I enclose an official response from my Government* and request that it be circulated as an official document of the Commission on Human Rights.

(Signed) Ksenofon KRISAFI

Ambassador
Permanent Representative

* Reproduced as received, in English only.

Annex

**REPLY OF THE ALBANIAN GOVERNMENT
TO THE REPORT OF THE SPECIAL RAPPORTEUR
ON THE PROTECTION AND PROMOTION OF THE RIGHT
TO FREEDOM OF OPINION AND EXPRESSION**

The Albanian government powerfully supports the work of the UN in the human rights field, including the mechanisms of the Human Rights Commission. It also supports the work of Mr. Abid Hussain, who for eight years in succession is carrying out the duty of the Special Reporter on the Protection and Encouragement of the Freedom of Speech, and thanks him for the Report "On the situation of freedom of expression in Albania", and also for the useful recommendations presented in this Report.

As it has been stressed in the Report, the situation for the protection and respect of human rights in Albania, including the freedom of expression, has been effectively improved as compared with that of four years ago. The legal framework sanctioning the protection of human rights is of contemporary standards and compiled with the assistance of international specialized organisms. Likewise, in Albania at present there is created a very favorable environment for the protection of human rights. In particular there is to emphasize the achievements with respect to the freedom of press. Although the issue for respecting all human rights has been a primary issue of her program, the Albanian government is conscious that there is a lot to do regarding the respect of these human rights.

Generally evaluating this report, and particularly the recommendations made in it, the Government of Albania finds it proper to make certain remarks, comments and clarifications on the presented facts in the Report, and also to inform of the events occurring after Mr. Hussain's visit in Albania. The inaccuracies in the presented Report might have originated from the data collected from questionable sources, and from Mr. Hussain's short stay in Albania.

Weakness of judicial power and corruption, Par. 9

Referring to the part of the Report speaking about serious issues dealing with the law effects and corruption, we would like to underline that the Albanian government has considered the strengthening of the judicial power and the fight against corruption as one of the greatest challenges, taking to this aim a series of measures. It is worth mentioning the preparation of tne necessary legal framework for the daily activity of the courts, prosecutor's office, and judicial police. By aiming at improving the respect of human rights in general and the right of expression in particular, there have been made a series of changes in the Penal Code and in the Civil and Penal Procedures Code, which are lately presented to the Parliament for approval. In these draft laws there have been especially foreseen the cases of publicity of the judicial process by guaranteeing a transparent process, easily monitored by the press and public opinion, in the function of respecting and correctly applying the law. Likewise, it has been prepared "Rules Book for Administrative Functioning of the Courts" which does not only enable to discipline their administrative activity, but also put at the

disposal of interested people the information of the judicial archives. Through this Rules Book there is created the possibility to best identify and check the activity of judicial administration officials.

The legislative reform of the institutions has been concretized with the preparation of the Law "On Prosecutor's Office in the Republic of Albania" and the Law "On Judicial Police", which have been now passed by the Parliament of Albania, as well as with the preparation of the draft law "On The Supreme Council of Law" and the necessary changes in the Law "On the Magistrate School". This legislation of international standards aims at preparing professional capable lawyers, who would be nominated in the judicial system and the structures of prosecutor's offices and judicial police, thus enabling the raising of the professional level of the activities of these bodies, and consequently the better respect of the law.

With relation to the fight against the phenomenon of corruption, there have been taken measures not only from the legislation point of view but also from the executive point of view. By applying the anti-corruption Platform approved by the Government, there have been intensified and developed checks to the activity of the administration functionaries, judges, prosecutors, judicial police officials and of the judicial administration with the aim of identifying the infringements for profit aims and of taking proper measures

The issue of presenting national reports for applying UNO Conventions on Human Rights. Par. 13

By taking part in a great number of international conventions which treat human rights, and particularly in UNO Conventions, the Albanian government is conscious of her obligation in presenting national reports on the measures of legislative character and how these conventions are implemented in practice. The absence of such reports up to present, derives from the lack of appropriate mechanisms dealing with the preparation of such reports and also from the lack of experience in preparing them. We are pleased to inform that recently a project initiated from the Ministry of Foreign Affairs, UNDP and OHCHR has been put into effect for the creation of national bodies to report before the institutions of main treaties of human rights ratified by the Republic of Albania. In conformity with this report it has been created, with the order of the Albanian Prime minister, the inter ministerial work group for the compilation of national reports, and it has also been opened the coordination office
to the MFA where for several months the human rights OHCHR expert, Mrs. Ewa Brantley has been working.

Journalists maltreatment cases, Par. 34-35

The Albanian government estimates that the cases mentioned in the report represent a concern to be taken into consideration, but she would like to clarify that these cases have occurred when the Albanian state was experiencing tense political events. Moreover, The cases in word are sporadic and do not follow some definite policy of the Albanian governmental authorities. On the contrary, the Albanian government has expressed her pity for these cases and has condemned them forcefully. Today, as it has also been stated in the Report, there is not any press worker detained or arrested in the police quarters. Likewise, not any

journalist is suffering in the Albanian prisons any penalty. The activity of the Albanian State Police and law institutions is completely institutionalized and oriented to democratic standards.

The Public Order Ministry has been rather sensitive to this issue especially for the establishment of legal and ethics relations with the community in general, and with TV and written media workers in particular. There is marked a turning point in this respect after the approval of the laws: "On State Police", " On The Information Right", "On The Classified Information", "On The Press", and other auxiliary acts, where the relations of police workers with the public in general, and media workers in particular, have been institutionalized to democratic standards. This fact has also been identified by the Report, in which for the year 2000, there is observed only one journalist maltreatment case.
Referring in a more concrete way to the above mentioned cases in the Report, we would like to stress that:

For the maltreatment case of the journalists Ylli Dosku and Rexhep Polisi by the police worker of Librazhd Police Commissariat there is started the penal procedure for that policeman, whereas from the Public Order Ministry there have been taken all the measures in conformity with the Discipline Rules. Finally, this case has been solved with the reconciliation of both sides.

The same above attitude has also been taken even for the maltreatment case of the journalists Armand Baze (ABC Radio), Irena Vreto (Republican Newspaper), Aleko Likaj (Our Time Newspaper), Hyqmet Zyma (Albania Newspaper) and Riza Sadiku and Hysen Murati (press transportation workers of Our Time Newspaper)

Concerning the conflict between one cameraman and Tirana Police Director, besides reconciliation between sides, the police official has been removed from his duty.

Regarding the killing of the Albanian Newspaper Journalist, Mr. Ali Ramadan Ukaj, we do clarify that the killing has taken place in July of 1997 and not in July of 1999, as being stated in the Report. This case has been completely cleared up and the author of this crime is experiencing the punishment in prison. The motifs for this killing are not related to Mr. Ukaj's profession.

In the case of Mrs. Karanxha's hurt, Pogradec Television journalist, the police has carried out all its necessary actions, and from its investigation it has been observed that this hurt is not connected with her profession, but is quite accidentally, occurring by negligence. Meanwhile the police is continuing its work for identifying the author.

With regard to the detainment and penal prosecution of Kontact Radio Journalist, Mr. Alfons Zeneli, we reiterate that this detainment has been done for reasons that are not related with the journalist profession.

As for other cases of violence exercised to journalists, they have been performed by unidentified civilians, for whom local police structures have carried out all the necessary appropriate procedural actions following with priority their identification and capture.

Treatment of defamation cases by the Penal Code, Par. 41- 44

Regarding the concern of the Report that "the Government has still the power to threaten and confine the media through the Penal Code of 1995, and mainly through articles 119 and 120 treating the offence of defamation", we clarify that the Penal Code of the Republic of Albania has been compiled with the continual counseling of the Council of Europe. From this viewpoint, The penal Code is to be considered as a law of best international standards, taking also into account the changes recently approved by Albania's Parliament. The offences of defamation mentioned in the Report, are foreseen in the same way as in the penal codes of more advanced democratic countries. Bearing in mind the fact that any individual has his own dignity and the right to protect it, these dispositions may not be interpreted as if they aim at degrading the journalist personality. Likewise, based in the Report statements on the professionalism level of Albanian journalists, the journalists often violate the principles and standards of the ethics of journalism, thus leading them to act against the law.

From the action field view of the above articles of the Penal Code, we clarify not only the journalists are subjected to it, but all individuals committing such like offences, through press and other means of communication. At the same time, based in official data, the majority of the judged cases covered by articles 119 and 120 have been condemned by fines alone, and not imprisonment.

Irrespective of the above stated, The Parliament of the Republic of Albania has scheduled in its program to examine "The Press Freedom Act", which in its core aims at protecting the freedom of information through press and its information sources. Through this draft law it is intended that all offences of defamation when realized through the press, be treated in most of the cases by the Council of the Journalist Order and punished by administrative reprimanding sanctions rather than through court penal procedures.

The issue of the public and private radiotelevision broadcasters, Par. 47-53

Referring to the part of the Report speaking about the license procedure to private transmitters, we make these clarifications:

a) Mention is made that "The Government takes part in financing the public radio television directed by an Independent Managing Council". It is true this institution is managed by one Independent Managing Council, but the Government continues to be co-partner in financing, this even sanctioned by law.

b) The procedure for licensing private radiotelevisions should have begun after the creation of KKRT (National Council of Radio television), and not after the approval of the law No. 8410 "On Public and Private Radio television in the Republic of Albania. Within 2000, there have been licensed 81 national, local, private radio television operators from the National Council of Radio television. In Tirana, the capital of Albania, alone, there have been licensed 14 television operators and 18 FM radio operators. These figures go to show that in Albania nobody has the monopoly on media in general, and on information in particular.

Finance problems of media

The Albanian government has had into consideration the issue of the tax load to be paid by the entrepreneurs and media publishers and consequently accepts the observation made in the report that the finance exerts its influence over the freedom of information. But, we at the same time emphasize that the fiscal load levied on the Albanian media has not had as its goal the discrimination and impediment of their activity. For example, the taxes and payments for the frequencies are comparable with other similar services. Likewise, we find it proper to clarify that irrespective of the legal obligation they had, all the radio television operators under transmission, have actually paid not any kind of taxes or payments for their radio television activity for three years.

With the aim of encouraging the investments in the new electronic media, The National Council of Radiotelevision, after studying the advertisement trade and the possibilities of the Albanian business, reexamined sometimes ago the annual payments these media should pay, and reduced them in the amount of 50%; whereas for the written media, we would emphasize that in February the Government approved a draft law which would exempt the written press from the taxes and duties. This draft law will be examined and soon enough will be approved by the Parliament of Albania.

The minorities issue, Par. 74- 80

As for the situation of the minorities living in Albania, we consider that the Report ought to have mentioned the fact that historically there has been a peaceful and tolerant coexistence between the Albanian population and the minorities, and there has been not any conflict or inter-ethnical collision. As stated in the Report, the Albanian legislation treats the minorities equally with the Albanian population, protecting them from all kinds of discrimination, and enabling them to exercise their rights in the same way as other citizens.

From the point of ethnical minorities, we clarify that at present the Albanian state recognizes as ethnical mincrities: the Greek, Macedonian and Serbian - Montenegro minority. Whereas the Vllachs and Roma minorities, defined in the Report as ethnical minorities are considered by the Albanian State as linguistic groups.

As far as the official figures of national minorities in Albania are concerned, they have been identified and known numerically as a population only in cases of general registration of the national population of the whole country. According to the official information prepared by the Statistics Institute, based in the general census of the population and habitation buildings of 1989, the national minorities figures according to their nations are as following:

Greek minorities:	58758
Macedonian minorities:	4697
Serbian-Montenegro minorities:	100
General Population:	3 182 417 inhabitants

The above stated data are approximate with those published by the Albanian Helsinki Committee, which is a Non- governmental Organization. The non-official figure of 300 000 inhabitants attributed to the Greek minority in the Report, is not at all real, and is related with the tendency of certain circles to define the Albanian population of the Christian Orthodox religion as a Greek minority.

With regards to the citation of a source that the Greek minority in Albania "has insufficient possibilities to study the Greek language", we emphasize that this citation is not real. The Abanian legislation and the measures taken into practice have enabled the Greek minority in the their living areas to learn their mother tongue. Further more, we emphasize that the Greek language in Albania is taught up to academy level. Concerning "the discrimination to employment in public levels" mentioned by the same source, we would like to clarify that the Greek minority takes part in all the governmental levels, something accepted by the Report itself.

The women's position, Par. 81- 87

Irrespective of the defects that my be encountered, in Albania there are no disturbing problems related with the female position, and neither "discriminatory policies or practices for women" as stated in one of the Report recommendations. The way women's position in Albania has been treated in the Report defectively reflects the Albanian reality. In the Report it might have been mentioned for example that the educational level of the Albanian woman is the same with that of the man, a characteristic of the developed countries. Except for isolated cases, in Albania does not exist any discrimination between man and woman with respect to payments level for equal work.

As far as female representation in governmental levels is concerned, we emphasize that in Albania there is a marked improvement as compared to that of some former years. It might be mentioned the fact that in the local power elections of 2000, the number of female municipality heads increased from 3 to 11. In the Municipality Council of the capital of Albania, Tirana, where 1/'3 of the population of Albania live, female members occupy 55% of the total number.

Although the number of female deputies at present represents 11% of the general number of Parliament members, there exists a good political will between the main political forces to increase the number of females in the high power organs. Moreover, the main parliamentary group, that of the Socialist Party has prepared an addition to the Election Code which obliges the parties participating in the elections to present not less than 30% female candidates for the general parliamentary elections.

Recommendations

The Albanian government evaluates all the recommendations presented in the Report defining them as being in conformity with the goals of the Government for increasing the respect level of human rights. Some of these recommendations have been answered in the above written material. However, we emphasize that some of the recommendations have nothing to do with the present day situation in Albania.

The Government has taken into consideration the recommendations for:

- a visit in Albania of the Special Reporter on the independence of the courts and attorneys and the Special Reporter on the violence against women;

- strengthening of the Ombudsman institution;

- re-examination of articles treating slanders and offences;

- enforcement of the law on the information right;

- facilitation of finance barriers for the media;

- time balancing of television programs;

- broader representation in the National Radio television Council;

- propaganda of basic means for human rights and especially for the information right;

- increase of radio television programs treating human rights issues;

- respect of journalistic ethics

The Albanian government considers not real for the present day conditions the recommendations:

- for doing away from the part of the Government with all the infringements towards those individuals who claim to exercise the freedom right of expression;

- for eliminating the discriminatory policies and practices which impede women's emancipation in the Albanian society.